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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,872

05/18/2007

Elan Ziv

34061

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67801

7590

08/04/2010

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EXAMINER

BURK, CATHERINE E

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

08/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,872	Applicant(s) ZIV, ELAN	
	Examiner CATHERINE E. BURK	Art Unit 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-37 is/are pending in the application.
- 4a) Of the above claim(s) 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15, 17-22, and 26-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the amendment filed on June 29th, 2010. The examiner acknowledges the amendments to claims 1, 8, 16, 18, 23, 26, and 30, the cancellation of claim 17, and the addition of new claims 32-37. Claims 1-16 and 18-37 are pending.

Election/Restrictions

1. Applicant's election with traverse of Species a, claims 1-15 in the reply filed on June 29th, 2010 is acknowledged. The traversal is on the ground(s) that species a is generic to both species b and c. This argument is persuasive; accordingly, applicant is only required to elect between species b and c. In the response filed on June 19th, 2010, applicant has elected species b, claims 16 and 18-22, along with generic claims 1-15 for further prosecution. Accordingly, claims to species c, 23-25, have been withdrawn from consideration.
2. Applicant's amendments to claims 1-31 have obviated the previous lack of unity restriction and necessitated a new lack of unity restriction requirement. Originally described Groups I and II, claims 1-25 and 26-29 respectively, now have unity because both groups recite the same special technical features of an apparatus for treating urinary incontinence. However, originally described group III, claims 30 and 31, still lacks unity with groups I and II for the reasons presented below.
3. In summary, the species restriction of the apparatus claims still applies and applicant has elected species b, therefore generic claims 1-15 and species b claims 16 and 18-22 are pending and claims 23-25 have been withdrawn. The original lack of unity restriction was obviated by amendment, however this amendment necessitated a new lack of unity restriction, presented below, pertaining to now pending claims 1-16, 18-22, and 26-37.

4. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- a. Group I, claim(s) 1-16, 18-22, 26-29, and 32-37, drawn to an apparatus for treating urinary incontinence and a method of using the apparatus.
- b. Group III, claim(s) 30 and 31, drawn to an apparatus for inserting an expanding and anchoring vaginal device.

5. The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical features of group I consist of an apparatus comprising a node, a support section, and an anchoring section while the special technical features of group II consist of an enclosure and a stopper. Since there are no common special technical features, the groups lack unity a priori. While the enclosure of group II is intended to contain an intra-vaginal device according to claim 1, the intra-vaginal device of claim 1 is not part of the structure of the device in group II and is only recited in an intended use clause of claim 30.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE E. BURK whose telephone number is (571) 270-7130. The examiner can normally be reached on Monday-Thursday 8:30 am - 7:00 pm EDT.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. E. B./
Examiner, Art Unit 3735

/Charles A Marmor, II/
Supervisory Patent Examiner
Art Unit 3735